IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 20TH NOVEMBER 2006 / 29TH KARTHIKA 1928

Crl.MC.No. 215 of 2005(B)

CC.53/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT, MANNARGHAT

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PETITIONER:

1. K.K.SANTHOSH @ KUTTAN,
   S/O.KESAVAN, KALLINGAL HOUSE,
   PARUTHIPPULLY P.O., ALATHUR TALUK,
   PALAKKAD.

2. K.P.KESAVAN, KALLINGAL HOUSE,
   PARUTHIPPULLY P.O., ALATHUR TALUK,
   PALAKKAD.

3. DAKSHAYANI, W/O.KESAVAN,
   KALLINGAL HOUSE, PARUTHIPPULLY P.O.,
   ALATHUR TALUK, PALAKKAD.

4. VIJAYAN, S/O.KESAVAN,
   KALLINGAL HOUSE, PARUTHIPPULLY P.O.,
   ALATHUR TALUK, PALAKKAD.

5. VIJAYALAKSHMI, W/O.VIJAYAN,
   KALLINGAL HOUSE, PARUTHIPPULLY P.O.,
   ALATHUR TALUK, PALAKKAD.

BY ADV. SRI.P.VIJAYA BHANU
SMT.P.MAYA

. RESPONDENTS:

1. P.S.KUMARI @ KUMARI,
   D/O.AMMINIAMMA, PUTHENPURA KIZHAKKETHIL
   VEETTIL, MATTATHIL, THATHUMBARA AMSOM,
   THACHUMBARA DESOM, MANNARGHAT TALUK.

2. STATE OF KERALA,
   REPRESENTED BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. GIKKU JACOB, PUBLIC PROSECUTOR
SRI.M.V.HARIDAS MENON

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 20/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

CRL. M.C. NO. 215 OF 2005

Dated this the 20th day of November 2006

ORDER

The petitioners, who are the accused in C.C.No. 53/2004 in the court of Judicial First Class Magistrate, Mannarghat, has sought for setting aside the proceedings initiated against them under sections 3 and 6(2) of the Dowry Prohibition Act 1961. The petitioners are the husband, father-in-law, mother-in-law, brother-in-law and wife of brother-in-law of the complainant. It is the allegation that the petitioners insisted for Rs. 1 lakh and 51 sovereigns of gold as dowry. The same was demanded and paid before the marriage. It is submitted that the petitioners except the 5th petitioner were subjected to trial for the offence under section 498 A in C.C. 72/2003 and all of them were acquitted. It is the case of the petitioner that in the judgment in .C.C. 72/2003 the court has specifically observed that there was no evidence to show that the defacto complainant was subjected to harassment for not bringing dowry. It is also pointed out that the complaint has been filed after 2 years of the marriage which had taken place on 08.4.2000. The allegation is that the demand for

dowry was on 08.04.2000, but the complaint was filed on 02.06.2003. The contention is that, it is only to harass the petitioners that the present complaint has been filed.

2. I find that Annexure A is the copy of the complaint which should show that the same is dated 02.06.2003. The case alleging offence under section 498 A of IPC was filed in 2002 and the same was referred to the police and the final report was filed in 2003. The present offences alleged are different and separate from the offence under section 498A. The petitioner has no case that the present complaint is barred by limitation. The prosecution allegation in C.C. 72/2003 is that the defacto complainant was harassed and ill treated demanding more dowry. The present complaint is with respect to the demand and receipt of dowry before and at the time of marriage. The contention that the present complaint is lacking in bonafides and is meant only to harass the petitioners which is a matter of evidence.

In the circumstances, I find no reason to quash the proceedings as such. It is submitted that the petitioner is aged 75 and the 3rd petitioner-mother is also aged. So far as the above petitioners/accused are concerned they may apply for exemption and the court below shall

consider the same favourably. The prayer to quash is declined. The Crl. M.C. is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

RV/